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10 Attorneys for Defendants
11 HEATHER BLOUGH and the MENDOCINO COUNTY
12 COMMUNITY DEVELOPMENT COMMISSION
13 Erroneously sued as BECHTEL CREEK VILLAGE
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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

KAREN ANN,

Case No. C-07 2031 MHP

Plaintiff,

v.

DEFENDANTS' NOTICE OF APPEARANCE,
REQUEST FOR AUTHORIZATION TO FILE MOTION
TO DISMISS AND PROPOSED ORDER

ROY TINDLE, HEATHER BLOUGH, GARY ONETO,
TINA ONETO and BECHTEL CREEK VILLAGE

Defendants.

JURY TRIAL DEMANDED

COMES NOW, DEFENDANTS HEATHER BLOUGH and the MENDOCINO COUNTY COMMUNITY DEVELOPMENT COMMISSION, erroneously named in the Complaint as BECHTEL CREEK VILLAGE and hereby enters an appearance and designate Kathy E. Mount, Esq. and Kevin E. Gilbert, Esq. of the law firm MEYERS NAVÉ as their attorneys of record for these proceedings. Further, Defendants hereby provide notice of their demand for a Jury Trial in this proceeding.

Pursuant to The Honorable Judge Patel's standing order, Defendants hereby request authorization to file a Motion to Dismiss Plaintiff's Complaint. Said motion to dismiss will be based upon the following grounds:

1. This Court lacks jurisdiction over the pending disputes pursuant to the Rooker-Feldman Doctrine.

1 2. Plaintiff's Complaint is barred pursuant to the principles of Collateral Estoppel and Res
 2 Judicata based upon a prior judgment being entered in favor of Defendants as against Karen Ann in
 3 Mendocino Superior Court, Case No. MCUKCVUD0513370, a true and correct copy of which is attached
 4 hereto as Exhibit A.

5 3. Plaintiff's claim of civil rights deprivation in violation of 42 USC §1983 is precluded as Plaintiff
 6 does not have a constitutional right to the renewal of her lease (see *Downtown Auto Parts Inc. v. City of*
 7 *Milwaukee* (Wis, 1991) 938 F.2nd 705.

8 4. Defendants are immune from the allegations of Plaintiff based upon the qualified immunity
 9 doctrine as established by the United States Supreme Court in *Saucier v. Katz*, 533 US 194 and its progeny.

10 5. Plaintiff's Second Cause Of Action for Breach of Contract is barred pursuant to Plaintiff's
 11 failure to present any claim to Defendants, a public agency and its employees, as required by California
 12 Government Code § 910 et seq.

13 6. Plaintiff has failed to exhaust her otherwise available administrative remedies established b
 14 the terms of the contract between the parties and attached as an Exhibit to the First Amended Complaint.

15 For the foregoing reasons, Defendants respectfully request this Court authorize Defendants to
 16 immediately file a Motion to Dismiss. In the alternative, Defendants respectfully request this Court issue an
 17 Order extending the time in which Defendants are to file a response to Plaintiff's First Amended Complaint to a
 date following the Case Management Conference currently scheduled for July 23, 2007.

18 DATED: June 6, 2007

19 Respectfully submitted,

20 MEYERS, NAVF, RIBACK, SILVER & WILSON

21 By: _____
 22 Kevin Gilbert

23 Attorneys for Defendants
 24 HEATHER BLOUGH and the MENDOCINO
 25 COUNTY COMMUNITY DEVELOPMENT
 26 COMMISSION, Erroneously sued as BECHTEL
 27 CREEK VILLAGE

28 974478

1 Good Cause Appearing, the Court hereby Grants Defendants Heather Blough and the Mendocino
2 County Community Development Commission's Request to File a Motion to Dismiss. Defendants may file said
3 motion prior to the July 23, 2007 Status Conference and in compliance with the applicable statutes and Court
4 Rules.

5 IT IS SO ORDERED.
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7 Date: June 20, 2007



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EXHIBIT A

RECEIVED DEC 2 2005

1 DAVID RIEMENSCHNEIDER #93368
2 LAW OFFICES OF DAVID RIEMENSCHNEIDER
3 P.O. BOX N
4 UKIAH, CA 95482
(707) 462-1351

ENDORSED-FILED

DEC 21 2005

CLERK OF MENDOCINO COUNTY
SUPERIOR COURT OF CALIFORNIA
DAD

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7 Attorney for Plaintiff
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SUPERIOR COURT OF CALIFORNIA
MENDOCINO COUNTY
UKIAH BRANCH

COMMUNITY DEVELOPMENT MCUK-CVUD-05-13370
COMMISSION OF MENDOCINO
COUNTY,
Plaintiff,
JUDGMENT BY DEFAULT
KAREN ANN,
Defendant.

This cause came on regularly for decision by affidavit pursuant to Code of Civil Procedure Section 585(d). The Affidavit of Heather Blough in Support of Judgment by Default and pleadings in the file have been duly considered. The Defendant KAREN ANN was served with Summons and Complaint herein, no appearance was made by or on behalf of said Defendant within the time allowed by law and her Default has been duly entered.

WHEREFORE, IT IS ORDERED AND ADJUDGED THAT:

1. Plaintiff COMMUNITY DEVELOPMENT COMMISSION OF MENDOCINO COUNTY recover from Defendant KAREN ANN possession of the premises described in the Complaint, being the real property in Mendocino County, California, known as 31 Alder Court, Willits, California.
2. Plaintiff COMMUNITY DEVELOPMENT COMMISSION OF MENDOCINO COUNTY recover from Defendant its costs and disbursements herein

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JUDGMENT IN UNLAWFUL DETAINER

1 amounting to the sum of \$203.30 and

2 3. The lease under which said property was held by Defendant is hereby
3 declared forfeited.

4 Dated: DEC 21 2005 , 2005.

LEONARD J. LA CASSE

JUDGE OF THE SUPERIOR COURT